

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

GRADY MCKINNEY

PLAINTIFF

v.

No. 3:11CV70-M-A

ANNETTE ALDRIDGE, ET AL.

DEFENDANTS

MEMORANDUM OPINION

This matter comes before the court on the *pro se* complaint of Grady McKinney, who alleges that the defendants fraudulently converted part of the estate of the plaintiff's deceased father, Nathaniel McKinney. The plaintiff is the administrator of his father's estate and seeks damages in the amount the defendants allegedly converted.

Federal courts are courts of limited jurisdiction. *Save the Bay, Inc. v. United States Army*, 639 F.2d 1100 (5th Cir. 1981). All federal courts may, *sua sponte*, raise the issue of subject matter jurisdiction at any time. *Johnston v. United States*, 85 F.3d 217 (5th Cir. 1996). Both the plaintiff and the identified defendant to this action are residents of Mississippi. Moreover, deciding the issues in the present case would place the court in the position of probating the will or administering the estate, including claims involving fraud upon the estate, of Nathaniel McKinney. Federal courts do not, however, have the power to do so. "[A] federal court has no jurisdiction to probate a will or administer an estate, the reason being that the equity jurisdiction conferred by the Judiciary Act of 1789, 1 Stat. 73, and s 24(1) of the Judicial Code, which is that of the English Court of Chancery in 1789, did not extend to probate matters." *Markham v. Allen*, 326 U.S. 490, 494, 66 S.Ct. 296, 298 (1946). As such, the instant case will be dismissed for want of subject matter jurisdiction – without prejudice to the plaintiff's ability to seek relief in

the Chancery Courts of the State of Mississippi. A final judgment consistent with this opinion will issue today.

SO ORDERED, this the 10th day of June, 2011.

/s/ MICHAEL P. MILLS
CHIEF JUDGE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI